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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/857,898	06/13/2001	Tamotsu Kataoka	06854.0017	2847
22852	7590	10/02/2002	[REDACTED]	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 1300 I STREET, NW WASHINGTON, DC 20006			EXAMINER	[REDACTED]
[REDACTED]		SIMONE, CATHERINE A		
[REDACTED]		ART UNIT	PAPER NUMBER	
[REDACTED]		1772	6	
DATE MAILED: 10/02/2002				

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Offic Action Summary</b>	Application No.	Applicant(s)	
	09/857,898	KATAOKA ET AL.	
Examiner	Art Unit		
Catherine Simone	1772		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-8 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____.
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>5</u> .	6) <input type="checkbox"/> Other: _____.

## DETAILED ACTION

### ***Claim Objections***

1. Claim 7 is objected to because of the following informalities: "has" should read "as" in line 3. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-8** are rejected under 35 U.S.C. 103(a) as being unpatentable over Watanabe (EP 0 699 521) in view Watanabe et al. (5,478,617).

Regarding **claim 1**, Watanabe (EP 0 699 521) discloses a multilayered film comprising five layers, characterized in that: a first layer (see page 3, lines 52-54) and a fifth layer (see page 4, lines 36-38) are made of (A) an ethylene  $\alpha$ -olefin copolymer having a density of 0.930 to 0.950 g/cm<sup>3</sup>; a second layer is made of: (B) a mixed resin comprising 30 to 60% by weight of an ethylene  $\alpha$ -olefin copolymer having a density of 0.910 to 0.930 g/cm<sup>3</sup>, 35 to 65% by weight of an ethylene  $\alpha$ -olefin elastomer having a density of 0.860 to 0.900 g/cm<sup>3</sup> and 1 to 10% by weight of a high-density polyethylene having a density of 0.955 to 0.970 g/cm<sup>3</sup> (see page 4, lines 1-10); a third layer is made of: the ethylene  $\alpha$ -olefin copolymer (A) (see page 4, lines 19-22); and a fourth layer made of : (C) a mixed resin comprising 35 to 55% by weight of a ethylene  $\alpha$ -olefin

having a density of 0.900 to 0.930 g/cm<sup>3</sup>, 40 to 60% by weight of an ethylene  $\alpha$ -olefin elastomer having a density of 0.860 to 0.900 g/cm<sup>3</sup> and 2 to 8% by weight of a high-density polyethylene having a density of 0.955 to 0.970 g/cm<sup>3</sup>. (see page 4, lines 29-32). However, Watanabe (EP 0 699 521) fails to disclose the ethylene  $\alpha$ -olefin in the mixed resin of the fourth layer as being a polypropylene. Watanabe et al. (5,478,617) teaches an ethylene  $\alpha$ -olefin being a polypropylene (see col. 5, lines 1-5) in the analogous art for the purpose of producing a layer in a multi-layer film having excellent strength, flexibility and transparency, and a container molded using the film.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified the ethylene  $\alpha$ -olefin in the mixed resin of the fourth layer in Watanabe (EP 0 699 521) as suggested by Watanabe et al. (5,478,617) in order to produce a layer in a multi-layer film having excellent strength, flexibility and transparency, and a container molded using the film.

Regarding **claim 2**, Watanabe (EP 0 699 521) further fails to disclose the ethylene  $\alpha$ -olefin as a polypropylene in the mixed resin of the second layer. Watanabe et al. (5,478,617) teaches an ethylene  $\alpha$ -olefin being a polypropylene (see col. 5, lines 1-5) in the analogous art for the purpose of producing a layer in a multi-layer film having excellent strength, flexibility and transparency, and a container molded using the film.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have modified the ethylene  $\alpha$ -olefin in the mixed resin of the second layer in Watanabe (EP 0 699 521) as suggested by Watanabe et al. (5,478,617) in order to

produce a layer in a multi-layer film having excellent strength, flexibility and transparency, and a container molded using the film.

Regarding **claims 4 and 5**, note the first layer has a thickness in a range of 5 to 15% of the entire film (see page 3, line 55), the second layer has a thickness in a range of 25 to 45% of the entire film (see page 4, line 15), the third layer has a thickness in a range of 2 to 15% of the entire film (see page 4, line 27), the fourth layer has a thickness in a range of 25 to 45% of the entire film (see page 4, lines 31-33) and the fifth layer has a thickness in a range of 7 to 20% of the entire film (see page 4, line 40). Regarding **claim 6**, note the thickness of the whole film is from 200 to 300  $\mu\text{m}$  (see page 4, lines 49-51). Regarding **claim 7**, note a container having the first layer of the multi-layered film as an outer layer and the fifth layer as an inner layer (see page 3, lines 2-15). Regarding **claim 8**, note a container is formed by interposing a port member made of polyethylene between the films and fusing them (see page 4, lines 52-57).

#### *Conclusion*

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents are cited for further teachings of multi-layer films and containers similar to that instantly disclosed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine Simone whose telephone number is (703) 605-4297. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on (703) 308-4251. The fax phone numbers for the

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organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

*CHS*  
Catherine Simone  
Examiner  
Art Unit 1772

September 26, 2002

*HP*  
HAROLD PYON  
SUPERVISORY PATENT EXAMINER  
*1112*

*9/27/02*